

EDMUND G. BROWN JR., Attorney General
of the State of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
ALEXANDRA M. ALVAREZ, State Bar No. 187442
Deputy Attorney General
110 West "A" Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-3141
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LEONA ROSE RHOADES, R.C.P.
14250 Hillsborough Drive
Victorville, CA 92392

Respiratory Care Practitioner License No. 21631,
Respondent.

Case No. 1H-2008-365

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 20, 2008, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation No. 1H-2008-365 against LEONA ROSE RHOADES, R.C.P. (Respondent) before the Respiratory Care Board.

2. On or about September 13, 2000, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 21631 to Respondent. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

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1 3. On or about November 20, 2008, Andrea Pina, an employee of the Board,
2 served by Certified Mail and Regular Mail, a true and correct copy of the Accusation No.
3 1H-2008-365, Statement to Respondent, Notice of Defense, Request for Discovery, and
4 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
5 with the Board, which was and is 14250 Hillsborough Drive, Victorville, CA 92392. A true and
6 correct copy of the Accusation, the related documents, and Declaration of Service are attached
7 hereto as Exhibit A, and are incorporated by reference as if fully set forth herein.

8 4. Service of the Accusation was effective as a matter of law under the
9 provisions of Government Code section 11505, subdivision (c).

10 5. On or about December 17, 2008, the aforementioned documents were
11 returned by the U.S. Postal Service marked "UNCLAIMED." A copy of the envelope returned
12 by the post office is attached hereto as Exhibit B, and is incorporated by reference as if fully set
13 forth herein.

14 6. On or about January 26, 2009, the Office of the Attorney General
15 conducted a search for Respondent's whereabouts and two addresses were discovered. On or
16 about February 11, 2009, Andrea Pina, served by Certified Mail and Regular Mail, a true and
17 correct copy of the Accusation No. 1H-2008-365, Statement to Respondent, Notice of Defense,
18 Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to
19 Respondent at the following two addresses: 13949 Doria Circle, Victorville, CA 92394 and
20 15450 Nisqually Road, Apt. 204, Victorville, CA 92395.

21 7. On or about February 23 and 25, 2009, the aforementioned documents
22 were returned by the U.S. Postal Service marked "NOT DELIVERABLE AS
23 ADDRESSED/UNABLE TO FORWARD." A copy of the envelopes returned by the post office
24 is attached hereto as Exhibit C, and is incorporated by reference as if fully set forth herein.

25 8. Government Code section 11506 states, in pertinent part:

26 "(c) The respondent shall be entitled to a hearing on the merits if the
27 respondent files a notice of defense, and the notice shall be deemed a specific
28 denial of all parts of the accusation not expressly admitted. Failure to file a notice

1 of defense shall constitute a waiver of respondent's right to a hearing, but the
2 agency in its discretion may nevertheless grant a hearing."

3 9 Respondent failed to file a Notice of Defense within 15 days after service
4 upon her of the Accusation, and therefore has waived her right to a hearing on the merits of
5 Accusation No. 1H-2008-365.

6 10. California Government Code section 11520 states, in pertinent part:

7 "(a) If the respondent either fails to file a notice of defense or to appear at the
8 hearing, the agency may take action based upon the respondent's express admissions or
9 upon other evidence and affidavits may be used as evidence without any notice to
10 respondent."

11 11 Pursuant to its authority under Government Code section 11520, the Board
12 finds Respondent is in default. The Board will take action without further hearing and, based on
13 Respondent's express admissions by way of default and the evidence before it, contained in
14 Exhibits A, B, C, and D, finds that the allegations in Accusation No. 1H-2008-365 are true.

15 7. The Respiratory Care Board further finds that pursuant to Business and
16 Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed
17 for in the Accusation total \$1,472.50, based on the Certification of Costs contained in Exhibit D.

18 DETERMINATION OF ISSUES

19 1. Based on the foregoing findings of fact, Respondent LEONA ROSE
20 RHOADES has subjected her Respiratory Care Practitioner License No. 21631 to discipline.

21 2. A true and correct copy of the Accusation and the related documents and
22 Declaration of Service are attached.

23 3. The agency has jurisdiction to adjudicate this case by default.

24 4. The Respiratory Care Board is authorized to revoke Respondent's
25 Respiratory Care Practitioner License No. 21631 based upon the following violations alleged in
26 the Accusation:

27 On or about June 12, 2008, in the case of *The People of the State of*
28 *California v. Leona Rose Rhoades*, case number MVI801600, before the Superior

1 Court of California, County of San Bernardino, respondent was convicted of
2 violating Penal Code section 647, subdivision (f) [drunk in public], in violation of
3 Business and Professions Code sections 3750, subdivisions (d) and (g), and 3752.

4 5. Respondent is hereby ordered to reimburse the Respiratory Care Board the
5 amount of \$1,472.50 for its costs of enforcement of this action.

6 ORDER

7 IT IS SO ORDERED that Respiratory Care Practitioner License No. 21631,
8 heretofore issued to Respondent LEONA ROSE RHOADES, is revoked.

9 Respondent is ordered to reimburse the Respiratory Care Board the amount of
10 \$1,472.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent
11 shall not relieve Respondent of her responsibility to reimburse the Board for its costs.
12 Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all
13 costs ordered under Business and Professions Code section 3753.5 have been paid.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may
15 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
16 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
17 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
18 statute.

19 This Decision shall become effective on May 9, 2009.

20 It is so ORDERED April 9, 2009

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23 Original signed by:
24 LARRY L. RENNER, BS, RRT, RCP, RPFT
25 PRESIDENT, RESPIRATORY CARE BOARD
26 DEPARTMENT OF CONSUMER AFFAIRS
27 STATE OF CALIFORNIA

28 Attachments:

Exhibit A: Accusation No.1H-2008-365, Related Documents, and Declaration of Service
Exhibit B: Copy of U.S. Postal Service Records
Exhibit C: Copy of U.S. Postal Service Records
Exhibit D: Certification of Costs: Declaration of Alexandra M. Alvarez